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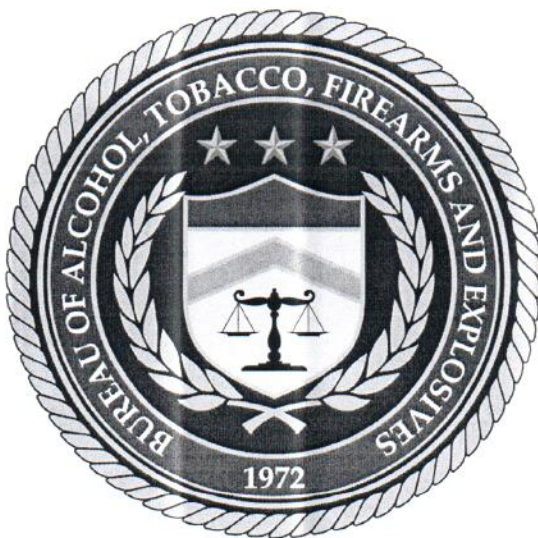


U.S. Department of Justice
Bureau of Alcohol, Tobacco, Firearms and Explosives
Office of Strategic Intelligence and Information

(U) Increased Possession of Privately Made Firearms (PMFs) by Prohibited Persons

ATF Intelligence Assessment

OSIICID-21-001



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Exhibit "13"

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Scope

(U//LES) The Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF), Office of Strategic Intelligence and Information (OSII), Criminal Intelligence Division (CID), Analysis Production Branch (APB), has prepared the following intelligence assessment to provide information regarding prohibited persons possessing “privately made firearms” (PMFs). This assessment utilizes ATF investigative and criminal intelligence information, firearms recovery data related to prohibited persons possessing PMFs, and open-source information. For purposes of this assessment, prohibited persons will encompass any individual who, under the constraints of the Gun Control Act (GCA), may not legally receive or possess firearms (see Appendix A).

Key Findings

- (U//LES) During calendar years (CYs) 2018 and 2019, ATF documented a 44-percent increase in the number of privately made firearms (PMFs) recovered in the possession of prohibited persons and submitted for trace analysis.
- (U//LES) Analysis indicates that prohibited persons are purchasing PMF parts and/or kits without a background check or transactional record.
- (U//LES) Information analyzed by ATF indicates that PMFs were used in various criminal activities, while the suspect/arrestee was prohibited from possessing a firearm.
- (U//LES) OSII/CID assesses with high confidence^a that the number of prohibited individuals obtaining, manufacturing, and/or possessing PMFs will increase in the foreseeable future.

Background

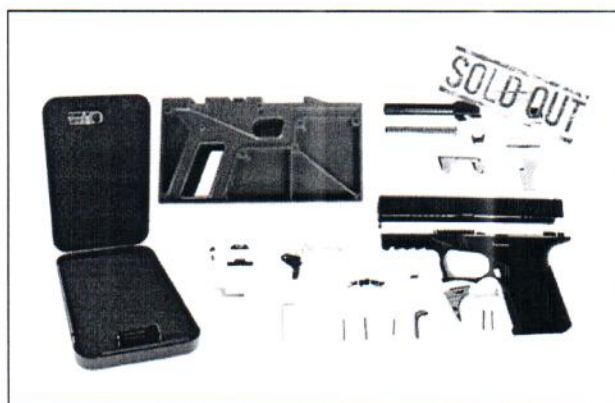
(U//LES) This assessment was prepared to provide law enforcement (LE) personnel with information regarding increased activity among prohibited persons possessing PMFs. PMFs recovered and traced during CY 2018 through CY 2019 increased among prohibited persons. The documented increase of prohibited persons found to be in possession of PMFs may result

^a **(U) Confidence Levels – High Confidence** generally indicates that the judgments are based on high-quality information or that the nature of the issue makes it possible to render a solid judgment. **Medium confidence** generally means that the information is credibly sourced and plausible, but can be interpreted in various ways, or is not of sufficient quality or corroborated sufficiently to warrant a higher level of confidence. **Low confidence** generally means that the information’s credibility or plausibility is questionable, the information is too fragmented or poorly corroborated to make solid analytic inferences, or that there are significant concerns or problems with the sources.

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from the ability to purchase PMF kits from vendors without the requirement to conduct a background check, and which do not have licensee serial numbers on the frame or receiver, which could be problematic in some regions. The PMF kits are subsequently completed without any record of a firearm purchase or transfer. Various companies sell kits that allow consumers to complete their own PMFs, such as “80% Lowers.” Numerous websites selling firearms components explain how a firearm is assembled and provide additional internet links for supplementary milling and assembly instruction. There are also “do it yourself” videos on YouTube, demonstrating how to assemble a PMF using the components sold online. (See figures 1 and 2.)



(U) Figure 1 – Glock style Polymer 80 kit
Source: 80% Lowers website



(U) Figure 2 – PMF kit recovered by
Woodland Police Department
Woodland, California
Source: Woodland Police Department

Definitions

(U//LES) The term PMF references a firearm (as defined in 18 U.S.C. § 921(a)(3)(A) or (B)), including a frame or receiver, completed, assembled, or otherwise produced by a person not licensed to engage in the business of manufacturing firearms, and without a serial number placed on the frame or receiver by a licensed manufacturer or importer. The term does not include a firearm registered in the National Firearms Registration and Transfer Record pursuant to 26 U.S.C. § 5841. Individual components and receiver/frame-shaped components required to complete a PMF generally^b do not meet the definition of a firearm, and the purchase of the individual components is not necessarily distributed through Federal firearms licensees (FFLs). The individual components can be purchased as “80 percent kits,” which is a designation or nomenclature adopted by certain companies to suggest that the kits are not yet considered firearms and are produced by the purchaser. The ATF Form 4473, which captures the personal identifying information (PII) of the purchaser and firearm information, is required to be completed by the FFL prior to the transfer of a firearm, but is not required for individual

^b (U) The FATD has indicated that some components, such as the Locking Block Rail System, are considered “frames or receivers.”

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component parts or receiver/frame-shaped components that are not yet considered firearms. The ATF Form 4473 helps identify and prevent prohibited persons from receiving firearms, and allows law enforcement to reconstruct a firearms transaction history. The FFL retains this form for at least 20 years. The ease of assembly and the absence of background checks and transactional records may create a desirable market for prohibited persons to purchase “80 percent” kits and assemble fully-functional firearms that are difficult to trace when used in a crime.

[Analyst Note: Numerous States and/or localities have enacted legislation outlawing or restricting the purchase and/or possession of PMF kits or weapons. For example, the State of California enacted legislation outlawing the possession of PMFs unless the weapon is registered with California officials. The State of New Jersey enacted legislation outlawing the purchase or possession of PMFs or kits.]

Firearms Recovery and Analysis Information

(U//LES) This report’s analysis is derived from firearms recovery data and comprises PMFs recovered and traced in the United States for CYs 2018 and 2019. The analysis was conducted on the following crime descriptions: “Felon in Possession,” “Parole Violation,” “Probation Violation” and “Carrying Prohibited Weapon.”^c These descriptions may not represent all PMF recoveries reported by LE to ATF. In this assessment, the individuals associated with the aforementioned crime descriptions are referred to as “prohibited persons.”

(U//LES) At the conclusion of the analysis, OSII/CID documented an increase of prohibited persons possessing a PMF when the firearm is recovered. In 2018, there were 422 recovered and traced firearms where the possessor was a prohibited person. In 2019, there were 954 recovered and traced firearms where the possessor was listed as a prohibited person, representing a 44-percent increase. Several States reported increases in PMF recoveries, with one notable rise in Pennsylvania, which reported six (6) prohibited persons in possession of a PMF during CY 2018. In CY 2019, this number rose to 106 (1,666-percent increase). During CY 2018, LE entities in the District of Columbia reported one (1) PMF in the possession of a prohibited person. In CY 2019, the District of Columbia reported 17 PMFs in the possession of prohibited persons, a 1,600-percent increase from CY 2018.

[Analyst Note: PMF recovery/trace information is an estimate based upon the inconsistency of entering PMFs into eTrace. If a trace has an indicator of being a PMF, it is counted as a PMF for this analysis. For example, if the trace requestor did not provide importer, manufacturer,

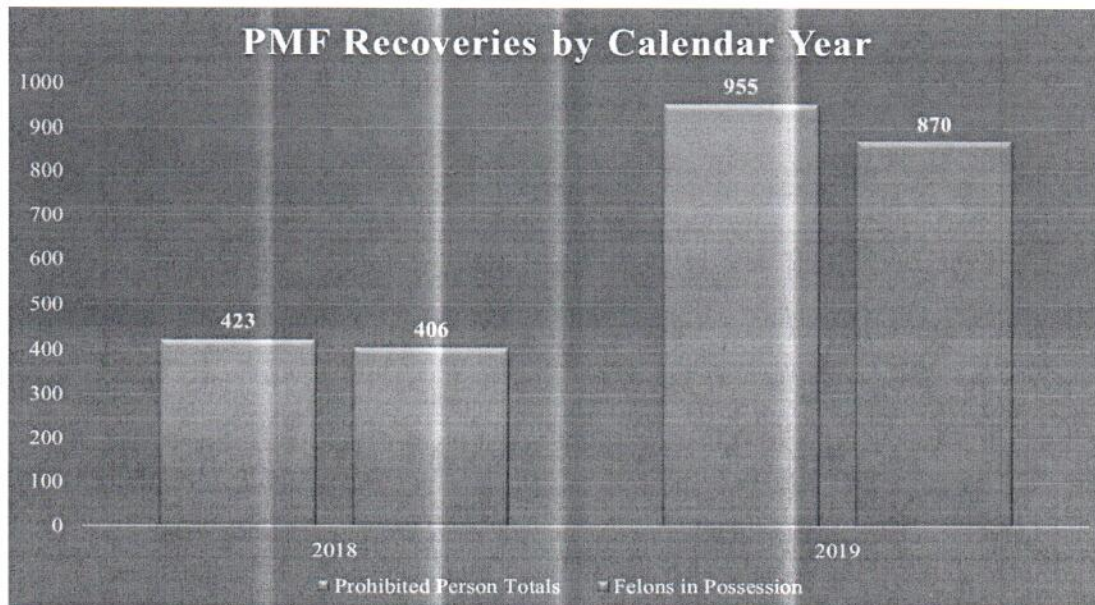
^c (U//LES) For purposes of this report, information concerning the crime description, “Carrying Prohibited Weapons” has been included as it has not been determined, listed or clearly explained as to the meaning of this phrase. Therefore, there is no ability to actually differentiate whether the individual found in possession of the firearm was prohibited by law from possessing a weapon or if the weapon itself was prohibited.

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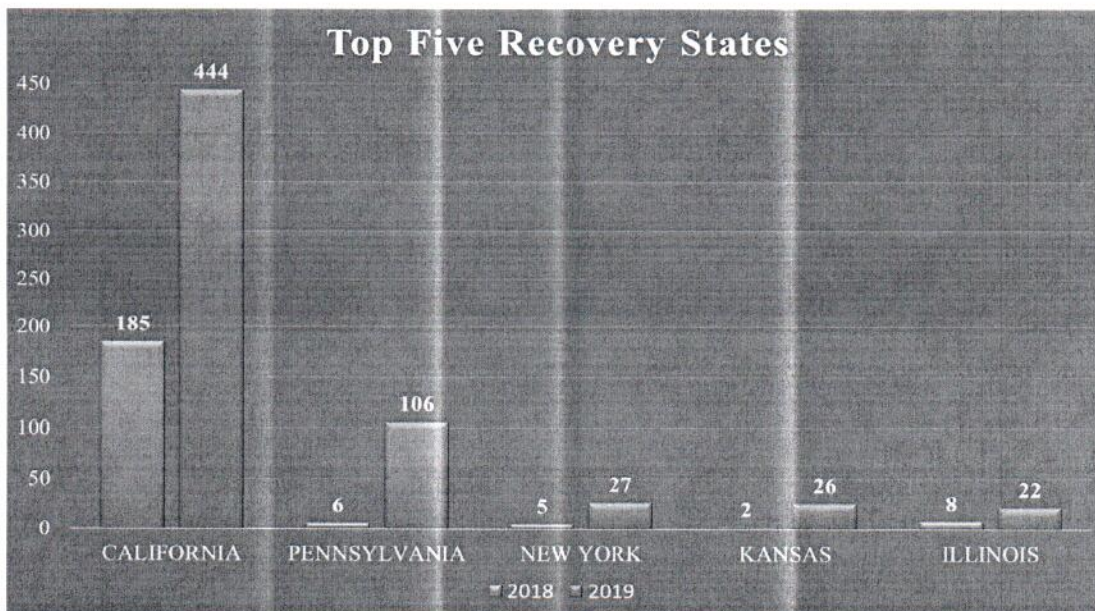
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model, or caliber information, and the firearm does not have an obliterated serial number, then it is perceived to be a PMF. Additionally, it is suspected LE organizations do not trace all the recovered PMFs, as they lack identifying information. As such, ATF estimations of recovered PMFs are likely fewer than actually recovered and are only reflective of those that were reported as PMFs.]

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(U//LES) Figure 3 – CYs 2018 and 2019 total prohibited person recoveries vs. felon in possession related PMF recoveries.
Source: eTrace.



(U//LES) Figure 4 – Top recovery States for CY 2018 and CY 2019 in which a prohibited person was in possession of a PMF.
Source: eTrace.

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- (U//LES) In CY 2018, LE entities in the State of California reported 185 suspected PMFs were recovered in the possession of prohibited persons. In CY 2019, there were 444 prohibited persons in possession of a PMF, which is a 140-percent increase.
 - (U//LES) In CY 2018, LE entities in the State of Pennsylvania reported six (6) suspected PMFs were recovered in the possession of prohibited persons. In CY 2019, there were 106 prohibited persons in possession of a PMF, which is a 1,666-percent increase.
 - (U//LES) In CY 2018, LE entities in the State of New York reported five (5) suspected PMFs were recovered in the possession of prohibited persons. In CY 2019, there were 27 prohibited persons in possession of a PMF, which is a 440-percent increase.
 - (U//LES) In CY 2018, LE entities in the State of Kansas reported two (2) suspected PMFs were recovered in the possession of prohibited persons. In CY 2019, there were 26 prohibited persons in possession of a PMF, which is a 1,200-percent increase.
 - (U//LES) In CY 2018, LE entities in the State of Illinois reported eight (8) suspected PMFs were recovered in the possession of prohibited persons. In CY 2019, there were 22 prohibited persons in possession of a PMF, which is a 175-percent increase.

Open Source / Law Enforcement Investigative Examples

(U//LES) An examination of LE and open source information revealed several examples of prohibited persons possessing suspected PMFs during the commission of crimes, to include homicide, possession, and firearms trafficking.

- (U) During July 2020, a PMF 9mm pistol was utilized in the deaths of two individuals outside a restaurant in Snyder County, Pennsylvania. According to Pennlive Online News Service, an individual fatally shot his ex-wife and her companion outside a restaurant. The subject was subsequently shot by another patron at the restaurant. Pennsylvania law enforcement determined that the subject was prohibited from receiving or possessing a firearm or ammunition, due to a protection order issued in June 2020. When filing her protection order against her ex-husband, she informed law enforcement that her ex-husband was also in possession of a PMF AR-15 style rifle.¹
 - (U//LES) In March 2019, ATF and other Federal LE executed a search warrant at the residence of a subject suspected of illegally possessing Glock conversion switches. During a search of the residence, LE personnel located and seized ammunition, several Glock conversion switches, and a PMF. The recovered PMF was equipped with a Glock conversion switch, thus making the weapon automatic. LE officials also determined that the subject was prohibited from receiving or possessing firearms due to a 2017 domestic abuse conviction. In April 2019, the subject was arrested and subsequently pleaded guilty to violating 18 USC § 922(g)(9) – illegal possession of firearms and/or ammunition by an
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individual who has been convicted in any court of a misdemeanor crime of domestic violence; 18 USC § 922(o) – unlawful possession/transfer of a machinegun; and 26 USC § 5861(d) – unlawful receipt/possession of an unregistered Nation Firearms Act weapon. The subject was sentenced to 46 months incarceration, along with a 36-month supervised release.²

- (U//LES) During December 2018, ATF Baltimore Field Division personnel received information from Virginia law enforcement regarding the suspected trafficking of firearms by an individual from Charles County, Maryland. This individual was determined by law enforcement to be a felon. In February 2019, ATF and Charles County LE personnel executed a search and seizure warrant. During the search warrant execution, law enforcement personnel discovered an indoor marijuana grow operation, firearms ammunition, and several firearms. One of the firearms recovered was determined to be an AR-15 style rifle, and another was a PMF Glock style pistol. The PMF was determined to have been constructed utilizing a Polymer80 pistol kit. The aforementioned individual was subsequently arrested.³
- (U//LES) In December 2018, California LE officers arrested an undocumented Mexican national in possession of firearms and narcotics. LE personnel recovered methamphetamines, cocaine, ammunition, and a PMF AR-15 rifle variant. The information was forwarded to ATF for possible Federal prosecution.⁴
- (U//LES) In February 2018, during a joint Federal, State, and local LE effort in the Stockton, California, area, Arturo NAPOLES, Raul DIAZ, and Raymond MORIN were indicted for their participation in a firearms trafficking scheme. NAPOLES, a convicted felon and previous gang member, was allegedly trafficking firearms. The firearms included several automatic weapons, stolen firearms, firearms with obliterated serial numbers, and several PMF rifles. DIAZ was alleged to have self-manufactured and sold 15 rifles. MORIN, also an identified gang member, was alleged to have illegally sold 13 firearms, 5 of which were identified by law enforcement as PMF rifles.⁵



(U) Figure 5 – PMF weapons seized/recovered during ATF and local law enforcement efforts.

Source: ATF and California law enforcement

- (U//LES) On October 16, 2018, NAPOLES pleaded guilty to violating 18 USC § 922(a)(1)(A) – unlawful manufacturing and dealing in firearms without a license.⁶

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- (U//LES) On January 22, 2019, NAPOLES was sentenced to 98 months incarceration, 60 months of supervised release, and fined \$400.⁷
 - (U//LES) On February 12, 2019, both MORIN and DIAZ pleaded guilty to violating 18 USC § 922(a)(1)(A) – unlawful manufacturing and dealing in firearms without a license. DIAZ was subsequently sentenced to 12 months of incarceration.⁸

Intelligence Gaps

- (U//LES) ATF and other LE agencies cannot accurately reconstruct a firearm's history without manufacturer identifiers or serial numbers. PMFs are generally not serialized, hindering the ability to trace the firearms and identify criminal suspects.
- (U//LES) During CY 2018 and CY 2019, recovered and traced PMFs were entered into the eTrace system in many different variations. The different variations make it difficult to obtain accurate information when conducting PMF analysis.

Conclusion

(U//LES) The analysis of available ATF data and open source information revealed the rate at which prohibited persons possessing PMFs rose 44 percent from CY 2018 to CY 2019. Examination of acquisition methods revealed that prohibited persons might be obtaining kits and parts on the open market without vetting, background checks, or regulatory exchange records. Many PMFs can be assembled utilizing common household tools, and by observing internet instructional videos, an individual can quickly complete a functional firearm with little to no experience. Additionally, prohibited persons can assemble firearms that are unlikely to be successfully traced. Possession of PMFs by prohibited persons increases the possibility or likelihood of their usage in violent incidents, thus endangering the public and law enforcement. Based upon ATF investigative information, LE firearms recovery data, and open-source information, OSII/CID believes with high confidence^d that prohibited individuals obtaining, manufacturing, and/or possessing PMFs will increase throughout the foreseeable future.

^d (U) **Confidence Levels – High Confidence** generally indicates that the judgments are based on high-quality information or that the nature of the issue makes it possible to render a solid judgment. **Medium confidence** generally means that the information is credibly sourced and plausible, but can be interpreted in various ways, or is not sufficient quality or corroborated sufficiently to warrant a higher level of confidence. **Low confidence** generally means that the information's credibility or plausibility is questionable, the information is too fragmented or poorly corroborated to make solid analytic inferences, or that there is significant concerns or problems with the sources.

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Reference

(U) The ATF/OSII point of contact for this intelligence assessment is Analysis Production Branch, intelanalysisprodbranch@atf.gov.

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Appendix A – Provisions of the Gun Control Act of 1968

18 USC § 922 (g) It shall be unlawful for any person —

- (1) who has been convicted in any court of, a crime punishable by imprisonment for a term exceeding one year;
- (2) who is a fugitive from justice;
- (3) who is an unlawful user of or addicted to any controlled substance (as defined in section 102 of the Controlled Substances Act (21 USC § 802));
- (4) who has been adjudicated as a mental defective or who has been committed to a mental institution;
- (5) who, being an alien—
 - (A) is illegally or unlawfully in the United States; or
 - (B) except as provided in subsection (y)(2), has been admitted to the United States under a nonimmigrant visa (as that term is defined in section 101(a)(26) of the Immigration and Nationality Act (8 USC § 1101(a)(26)));
- (6) who has been discharged from the Armed Forces under dishonorable conditions;
- (7) who, having been a citizen of the United States, has renounced his citizenship;
- (8) who is subject to a court order that—
 - (A) was issued after a hearing of which such person received actual notice, and at which such person had an opportunity to participate;
 - (B) restrains such person from harassing, stalking, or threatening an intimate partner of such person or child of such intimate partner or person, or engaging in other conduct that would place an intimate partner in reasonable fear of bodily injury to the partner or child; and
 - (C) (i) includes a finding that such person represents a credible threat to the physical safety of such intimate partner or child; or (ii) by its terms explicitly prohibits the use, attempted use, or threatened use of physical force against such intimate partner or child that would reasonably be expected to cause bodily injury; or

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(9) who has been convicted in any court of a misdemeanor crime of domestic violence, to ship or transport in interstate or foreign commerce, or possess in or affecting commerce, any firearm or ammunition; or to receive any firearm or ammunition which has been shipped or transported in interstate or foreign commerce.

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Notes

¹ (U) "Ghost gun used in shooting that killed two outside Snyder County restaurant"; Hummels Wharf, Pennsylvania. PennLive online news service. www.pennlive.com; 14 July 2020. Article accessed 20 August 2020. See article at: <https://www.pennlive.com/crime/2020/07/ghost-gun-used-in-shooting-that-killed-two-outside-snyder-county-restaurant.html#:~:text=Crime-,%20ghost%20gun%20used%20in%20shooting%20that%20killed,two%20outside%20Snyder%20County%20restaurant&text=HUMMELS%20WHARF%20%E2%80%93%20A%20%E2%80%93ghost%20gun,lack%20of%20a%20serial%20number>.

² (U//LES) ATF Columbus Field Division. March 2019. Individual with a prior domestic abuse charge found in possession of ammunition, several Glock conversation switches, and an NFA weapon. *UNCLASSIFIED//LAW ENFORCEMENT SENSITIVE*.

³ (U//LES) ATF Washington Field Division. December 2018. Information forwarded to ATF personnel as it relates to a suspected firearms trafficker in southern Maryland. *UNCLASSIFIED//LAW ENFORCEMENT SENSITIVE*.

⁴ (U//LES) ATF Los Angeles Field Division. December 2018. An individual is arrested by California law enforcement officers and found to be in possession of narcotics, ammunition, and a "privately made firearm." *UNCLASSIFIED//LAW ENFORCEMENT SENSITIVE*.

⁵ (U) "Three indicted for trafficking illegal firearms"; Stockton, California. Stockton Record News Service. www.recordnet.com; 15 February 2018; Filipas, Nicholas. See article at: <https://www.recordnet.com/news/20180215/three-indicted-for-trafficking-illegal-firearms>; 17 May 2019.

⁶ (U//LES) ATF San Francisco Field Division. January 2019. Information obtained concerning suspected firearms trafficking scheme involving several individuals. *UNCLASSIFIED//LAW ENFORCEMENT SENSITIVE*

⁷ *Ibid.*

⁸ *Ibid.*